

EXHIBIT 2

BROWN DECLARATION IN SUPPORT OF MOTION TO STRIKE

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE LUCY H. KOH
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S:

FOR THE PLAINTIFFS: JOSEPH SAVERI LAW FIRM
BY: JOSEPH SAVERI
LISA J. LEEBOVE
JAMES G. DALLAL
255 CALIFORNIA STREET, SUITE 450
SAN FRANCISCO, CALIFORNIA 94111

LIEFF, CABRASER,
HEIMANN & BERNSTEIN
BY: KELLY M. DERMODY
DEAN M. HARVEY
ANNE B. SHAVER
275 BATTERY STREET, 30TH FLOOR
SAN FRANCISCO, CALIFORNIA 94111

APPEARANCES CONTINUED ON NEXT PAGE

OFFICIAL COURT REPORTER: LEE-ANNE SHORTRIDGE, CSR, CRR
CERTIFICATE NUMBER 9595

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY
TRANSCRIPT PRODUCED WITH COMPUTER

1 SO IF WE COULD, YOUR HONOR, BASED ON THAT, IF WE COULD HAVE
2 A COUPLE MORE DAYS TO FILE OUR REPLY, I THINK THAT WOULD BE
3 MORE -- THAT WOULD BE BETTER.

4 THE COURT: I COULD GIVE YOU UNTIL THE 11TH. THAT'S
5 TWO EXTRA DAYS.

6 MS. DERMODY: THAT'S GREAT, YOUR HONOR. THANK YOU.

7 MR. SAVERI: THAT'S GREAT, YOUR HONOR. WE APPRECIATE
8 THAT.

9 THE COURT: OKAY. BUT NOW IT'S TIGHT ON THE CLOSE OF
10 EXPERT DISCOVERY.

11 MR. SAVERI: BUT, YOUR HONOR, THAT'S REALLY PROBABLY
12 JUST DEPOSITIONS OF THE -- OR SOMETHING LIKE THAT. THERE'S
13 VERY LITTLE THAT I CAN IMAGINE THAT WOULD HAPPEN BETWEEN --

14 MS. DERMODY: IF I MAY SAY, IT'S ACTUALLY A LONGER
15 SCHEDULE THAN WHAT THE PARTIES HAD AGREED TO BETWEEN THOSE
16 DATES.

17 THE COURT: OH, OKAY. SO -- BUT IS -- THAT'S A
18 LITTLE LESS THAN TWO WEEKS, THE 11TH TO THE 23RD. DOES THAT
19 GIVE YOU ENOUGH TIME FOR THE DEPOSITIONS?

20 MR. MITTELSTAEDT: THAT'S FINE.

21 THE COURT: WE COULD ALSO MOVE THESE DATES UP. I
22 JUST WANT A HEARING DATE ON MARCH 20TH. IF YOU WANT TO MOVE
23 DATES AROUND, I'M NOT OPPOSED TO THAT. I JUST NEED TO HAVE
24 THIS AMOUNT OF TIME IN BETWEEN --

25 MR. MITTELSTAEDT: YOUR HONOR, I THINK THAT'S FINE.

1 THE COURT: OKAY. ALL RIGHT. THIS SCHEDULE IS FINE?

2 OKAY.

3 SO THEN LET'S KEEP MOVING BACK. SO AUGUST 8TH -- WHEN --

4 OKAY. AUGUST 8TH AT 1:30 WILL BE THE NEXT CLASS CERT HEARING,

5 AND WE ALREADY TALKED ABOUT THE SCHEDULE FOR FILING.

6 NOW, I AM GOING TO ALLOW A PLAINTIFFS' EXPERT REBUTTAL
7 REPORT ON THE CLASS CERT ISSUE, BUT LIKE THAT FOOTNOTE, IT
8 REALLY NEEDS TO BE TRUE REBUTTAL AND NOT INTRODUCING BRAND NEW
9 THEORIES THAT SHOULD HAVE BEEN RAISED IN THE OPENING.

10 MS. DERMODY: UNDERSTOOD, YOUR HONOR. THANK YOU.

11 THE COURT: OKAY.

12 MS. DERMODY: YOUR HONOR, CAN I ASK ABOUT THE TRIAL,
13 WHAT YOUR HONOR'S CALENDAR MIGHT BE IN 2014 FOR TRIAL? DO YOU
14 HAVE DARK DAYS?

15 THE COURT: YES. SO WE'LL GO MONDAYS, TUESDAYS, AND
16 FRIDAYS BECAUSE I KEEP MY CRIMINAL AND MY CIVIL CMC AND LAW AND
17 MOTION CALENDAR GOING, TO THE EXTENT I CAN, ON THOSE TWO DARK
18 DAYS.

19 IF THE JURY -- IF YOU COMPLETELY FINISH JURY INSTRUCTIONS,
20 CLOSINGS AND THEY START DELIBERATING ON A TUESDAY, THEY CAN
21 DELIBERATE THROUGH A WEDNESDAY AND A THURSDAY. THAT'S OKAY.

22 BUT I JUST CAN'T HAVE COURT BECAUSE I'M TRYING TO KEEP MY
23 SPEEDY TRIAL CLOCK RUNNING ON MY OTHER CASES.

24 MR. SAVERI: IF I MIGHT, YOUR HONOR, CAN I ASK YOU
25 WHAT TIME YOU START YOUR TRIAL?

1 THE COURT: 9:00. SO WE GO FROM 9:00 TO NOON AND
2 THEN WE GO FROM 1:00 TO 4:30 P.M.

3 MR. SAVERI: OKAY.

4 THE COURT: WE'LL TAKE ABOUT A 15 MINUTE BREAK AROUND
5 10:30, AND THEN WE TAKE ABOUT A 15 MINUTE BREAK AROUND 2:45.

6 NOW, WHAT WE DO SOMETIMES IN THE AFTERNOON IS BREAK IT UP
7 INTO SMALLER BREAKS, BUT MORE FREQUENTLY. IF I START SEEING
8 JURORS GETTING VERY SLEEPY AND FALLING ASLEEP, THEN WE'LL TAKE
9 LIKE AN 8 MINUTE BREAK AROUND 2:00 AND WE MIGHT TAKE A 5 MINUTE
10 BREAK AROUND 3:00.

11 MS. DERMODY: GREAT.

12 THE COURT: OKAY. BUT WE TEND TO GET -- IN TERMS OF
13 ACTUAL TRANSCRIPT, WE GET 5 HOURS AND 15 MINUTES TO -- I THINK
14 THE MOST WE'VE EVER GOTTEN IN A DAY IS ABOUT 5 HOURS AND 40
15 MINUTES.

16 MS. SHORTRIDGE, DO YOU THINK WE GOT 5 HOURS AND 45 MINUTES?

17 THE REPORTER: ISH.

18 MR. SAVERI: THAT'S GREAT.

19 THE COURT: WE GET A LOT OF TRANSCRIPT TIME IN A DAY.
20 BUT THAT'S WHEN WE GO. SO WE'LL BE DARK WEDNESDAYS AND
21 THURSDAYS.

22 AND THEN YOU'LL HAVE TO WORK OUT YOUR SCHEDULE FOR -- I
23 LIKE TO HAVE LEAD TRIAL COUNSEL MEET AND CONFER IN PERSON ABOUT
24 ANY WITNESSES, EXHIBITS, DEMONSTRATIVES, AND THEN BY 8:00 A.M.
25 THE DAY BEFORE YOU INTEND TO CALL THAT WITNESS, USE THAT

1
2
3 CERTIFICATE OF REPORTER
4
5
6

7 I, THE UNDERSIGNED OFFICIAL COURT REPORTER OF THE UNITED
8 STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA,
9 280 SOUTH FIRST STREET, SAN JOSE, CALIFORNIA, DO HEREBY
10 CERTIFY:

11 THAT THE FOREGOING TRANSCRIPT, CERTIFICATE INCLUSIVE, IS
12 A CORRECT TRANSCRIPT FROM THE RECORD OF PROCEEDINGS IN THE
13 ABOVE-ENTITLED MATTER.

14
15 *Lee-Anne Shortridge*
16

17 LEE-ANNE SHORTRIDGE, CSR, CRR
CERTIFICATE NUMBER 9595
18 DATED: APRIL 12, 2013
19
20
21
22
23
24
25